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December 1, 2008

By Hand

Anne K. Quinlan, Esq.
Acting Secretary
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

ENTERED
Office of Proceedings

DEC 1 - 2008

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Public Record



Re: E.I. DuPont de Nemours and Company v CSX Transportation, STB No. 42112

Dear Secretary Quinlan

Enclosed for filing in the above-referenced matter, please find the original and ten copies of Defendant CSX Transportation Inc.'s Answer. Please stamp the enclosed copies to indicate the Petition has been received and filed, and return the stamped copies with our messenger, for our files. Thank you for your assistance in this matter.

If you have questions, please contact the undersigned

Very truly yours,

Paul A. Hemmersbaugh

Enclosures

cc: Nicholas DiMichael

)	
E. I. DUPONT DE NEMOURS AND CO)	
)	
	Complainant,)	
)	Docket No. NOR 42112
	v.)	
)	
CSX TRANSPORTATION, INC)	
)	
	Defendant)	
)	

Pursuant to 49 C.F.R. § 1111.4 and other applicable law and authority, Defendant CSX Transportation, Inc. ("CSX") respectfully submits this Answer to the Verified Complaint filed by Complainant E. I. du Pont De Nemours and Co. ("DuPont") in STB Docket No. 42112 on November 10, 2008 ("Complaint").

In response to the unnumbered paragraph on page 1 of the Complaint, CSXT denies that DuPont has paid or will pay common carrier rates in excess of a reasonable maximum rate for CSXT's transportation of the movements set forth in the Complaint (the "issue movements"), and denies that DuPont is entitled to any of the relief it seeks in this proceeding. The remainder of the unnumbered paragraph consists of a characterization of DuPont's Complaint, to which no response is required. To the extent that any such response is required, CSXT denies the remaining allegations of this paragraph.

With respect to the numbered paragraphs of the Complaint, CSXT responds as follows

1. CSXT lacks sufficient information to admit or deny the allegations of Paragraph 1 of the Complaint. To the extent a response is required, CSXT denies the allegations of Paragraph 1

2. CSXT admits the first two sentences of Paragraph 2 of the Complaint. With respect to the third sentence of Paragraph 2, CSXT admits that it is generally subject to Subtitle IV of Title 49 of the United States Code, and that some of its rates and practices are subject to the jurisdiction of the Board.

3. Paragraph 3 of the Complaint consists of a characterization of DuPont's Complaint, to which no response is required. To the extent a response is required, CSXT admits that the Complaint purports to challenge CSXT's rates for certain origin-destination pairs and groups set forth in Exhibits A and B to the Complaint. To the extent a further response is required, CSXT denies the remaining allegations of Paragraph 3

4. CSXT lacks sufficient information to admit or deny the allegations of Paragraph 4 of the Complaint, because it cannot determine with precision the locations of some of the origins and destinations named in Exhibits A and B. In particular, some of the "points" identified in the Exhibits are groupings of origins or destinations, and not specific individual origins or destinations. To the extent a response is required, CSXT denies the allegations of Paragraph 4.

5. CSXT lacks sufficient information to admit or deny the allegations of Paragraph 5 of the Complaint, because it cannot determine with precision the locations of some of the origins and destinations named in Exhibits A and B. In particular, some of the "points"

identified in the Exhibits are groupings of origins or destinations, and not specific individual origins or destinations. To the extent a response is required, CSXT denies the allegations of Paragraph 5.

6. In response to Paragraph 6 of the Complaint, CSXT admits that prior to June 16, 2007 it transported commodities for DuPont between various points pursuant to a Master Contract with DuPont. Because CSXT cannot determine with precision the locations of some of the origins and destinations named in Exhibits A and B, it cannot admit or deny whether it transported the listed commodities between each of the enumerated points. CSXT admits that it provided DuPont with private price quotations after the expiration of the Master Contract, but denies that those private price quotations were "common carrier tariff rates." These private price quotations were significantly discounted from CSXT's public common carrier rates. CSXT admits that the rates in these private price quotations were based on its last contract offer to DuPont. To the extent a further response is required, CSXT denies the remaining allegations of Paragraph 6.

7. Paragraph 7 of the Complaint consists of a characterization of DuPont's previous litigation with CSXT, to which no response is required. To the extent that a response is necessary, CSXT admits that DuPont brought complaints before the Surface Transportation Board ("Board") that were docketed under STB Docket numbers 42099, 42100, and 42101; that the Board considered these complaints pursuant to the guidelines set forth in STB Ex Parte No. 646 (Sub-No. 1), *Simplified Standards for Rail Rate Cases* (served Sept. 5, 2007); that the Board's initial decisions in those cases prescribed rates for six of the seven challenged rates, and that CSXT filed petitions for review of those decisions in the United States Court of Appeals for the District of Columbia. CSXT further states that the Board has identified a "material error" in

its decisions in each of the three cases, has vacated its prescriptions and reopened those three proceedings, and has asked that the Court of Appeals remand the three decisions for further proceedings. To the extent a further response is required, CSXT denies the remaining allegations of Paragraph 7.

8. CSXT admits the first and second sentences of Paragraph 8 of the Complaint. The last sentence of Paragraph 8 is a legal conclusion, to which no response is required. To the extent a response is required, CSXT denies the third sentence of Paragraph 8. CSXT denies the remaining allegations of Paragraph 8.

9. With respect to the allegations of Paragraph 9, CSXT admits that it provided common carrier tariff rates effective December 1, 2008 in response to DuPont's request for such rates. Because CSXT cannot determine with precision the locations of some of the origins and destinations named in Exhibits A and B, CSXT lacks sufficient information to admit or deny whether the 99 rates reproduced in Exhibits A and B accurately reflect CSXT's tariff rates, whether those rates are higher than the private price quotations previously in effect, and whether for joint line movements CSXT's Rule 11 rate factor is equal to or greater than the current through rate. To the extent a further response is required, CSXT denies the remaining allegations of Paragraph 9.

10. Paragraph 10 of the Complaint consists of a characterization of DuPont's Complaint, to which no response is required. To the extent a response is required, CSXT admits that the Complaint purports to challenge CSXT's rates for certain origin-destination pairs set forth in Exhibits A and B to the Complaint. To the extent a further response is required, CSXT denies the remaining allegations of Paragraph 10.

11 Paragraph 11 states a legal conclusion to which no response is required
To the extent a response is required, CSXT denies Paragraph 11

12. Paragraph 12 states a legal conclusion to which no response is required
To the extent a response is required, CSXT denies Paragraph 12.

13 Paragraph 13 states a legal conclusion to which no response is required
To the extent a response is required, CSXT denies Paragraph 13

14. Paragraph 14 states a legal conclusion to which no response is required,
To the extent a response is necessary, CSXT denies Paragraph 14

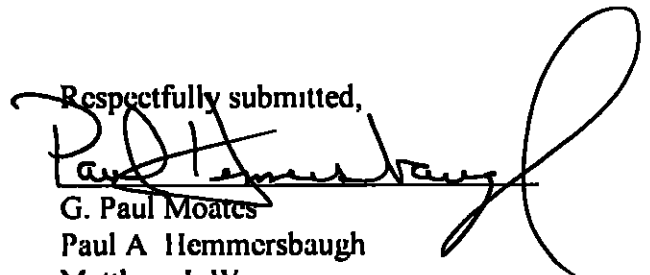
15 Paragraph 15 states a legal conclusion to which no response is required.,
To the extent a response is necessary, CSXT denies Paragraph 15

16. Paragraph 16 states a legal conclusion to which no response is required;.
To the extent a response is necessary, CSXT denies Paragraph 16

17. Paragraph 17 states a legal conclusion to which no response is required.
To the extent that a response is necessary, CSXT denies Paragraph 17.

The unnumbered final paragraph of the Complaint (on page 5) states legal conclusions and requests for relief to which no response is required. To the extent a response is deemed necessary, CSXT denies the allegations, conclusions, and requests for relief in that final paragraph, including clauses numbered 1 through 6, and denies that DuPont is entitled to any of the relief it seeks in this proceeding, or to any other relief.

Peter J. Shudtz
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Steven C. Armbrust
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Respectfully submitted,

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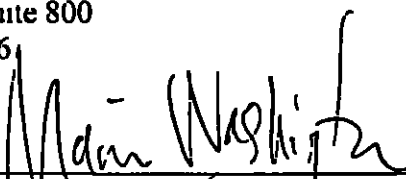
Counsel to CSX Transportation, Inc

Dated. December 1, 2008

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of December, 2008, I caused a copy of the foregoing Answer of CSX Transportation, Inc to the Verified Complaint of E I du Pont de Nemours and Co. to be served on the following parties by first class mail, postage prepaid or more expeditious method of delivery.

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Marvin Washington